



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 7761-98

28 January 2000

SSGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

Your request to remove your fitness report for 1 January to 24 April 1998 could not be considered because this report has not been entered in your Official Military Personnel File.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 27 January 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board in your case, dated 27 October 1998, and the advisory opinions from the HQMC Equal Opportunity Branch, Manpower Plans and Policy Division (MPE), dated 16 December 1998, the Deputy Naval Inspector General for Marine Corps Matters/Inspector General of the Marine Corps (IGA), dated 4 January 1999, and the HQMC Manpower Information System Field Support Branch, Manpower Management Information Systems Division (MI), dated 2 June 1999, copies of which are attached. They also considered the Third Marine Air Wing (MAW) Equal Opportunity Advisor letter dated 11 March 1998 with enclosures, a Marine Corps staff sergeant's letter on your behalf dated 24 June 1999, and your letters dated 1 December 1998 with enclosures, 4 February 1999, undated (received 3 June 1999), 30 June 1999 (two), and 1 July 1999 (two).

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish probable material error or injustice.

Notwithstanding the letter from the Third MAW Equal Opportunity Advisor dated 21 September 1998 and paragraph 1.b of the MPE advisory opinion dated 16 December 1998,

the Board was unable to find that the contested fitness report for 22 February to 31 December 1997, which was not adverse, was written to support your reporting senior's reenlistment recommendation with reservations, or that your reporting senior was biased against you. They did note that the Commanding Officer, Marine Tactical Air Command Squadron letter dated 2 April 1998, paragraph 3, stated "The above combination of factors created a 'personality' conflict between the supervisor [your reporting senior] and subordinate [you]." However, they further observed that a subordinate has an obligation to get along with superiors. Notwithstanding paragraph 1.d of the MPE advisory opinion, they likewise were unable to find that the contested page 11 entry was in reprisal for your having exercised your right to request mast, or for not having accepted the request mast findings. They noted that the page 11 entry at issue is correct in stating you made the charge that "'the "Good O [sic] Boy" network within the Armed Forces is a reality and is well-documented within the Marine Corps,'" as this is an accurate quotation from page 4 of your letter dated 8 April 1998, subject: Applicant's Degree of Satisfaction with Request Mast.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
27 Oct 98

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED], [REDACTED] USMC

Ref: (a) SSgt. [REDACTED] DD Form 149 of 13 Jul 98
(b) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 14 October 1998 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970222 to 971231 (AN) was addressed. Reference (b) is the performance evaluation directive governing submission of the report. **NOTE:** Staff Sergeant [REDACTED] also challenged the fitness report for the period 980101 to 980424 (TR). That evaluation, however, was not contained in his official record at the time the PERB processed his case. He has been advised to resubmit his appeal for that report once he has been made aware of its inclusion into the Automated Fitness Report System.

2. The petitioner contends that the report for the period 970222 to 971231 is inconsistent and represents reprisal on the part of the Reporting Senior. To support his allegations, the petitioner provides copies of his Request Mast, information concerning a Formal Inquiry/Investigation into alleged bias, a Reenlistment Recommendation, and other correspondence regarding his reenlistment request.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. Contrary to the petitioner's claims, and notwithstanding the documentation furnished with reference (a), the Board discerns nothing in the report that is either inconsistent or retaliatory. Additionally, and although not an overwhelming consideration, the Board also notes that the report at issue is not dissimilar from other evaluations received by the petitioner throughout his career. To this end, the Board concludes that the petitioner has failed to meet the burden of proof necessary to establish the existence of either an error or an injustice.

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED] USMC

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Staff Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

7761-48
IN 5851 REFER TO:
MPE
16 Dec 98

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: REVIEW OF BCNR APPLICATION IN THE CASE OF STAFF SERGEANT
[REDACTED]

Ref: (a) BCNR Package dtd 03 Dec 98

1. Per MMER tasker Control Number 981203013, a review of Staff Sergeant [REDACTED] request to BCNR for allegations of discrimination, unfair treatment and reprisal was conducted. After careful review of the attached documents, the following comments/opinion(s) are provided:

- a. Issue: Subject Name Marine (SNM) alleges bias by his reporting senior in his recommendations for reenlistment and fitness report.
- b. Comment: Statements contained in a letter (**Tab-A**) from SNM's reporting senior could be considered biased towards the Marine's participation in an Equal Opportunity Investigation against the reporting senior. This document could be considered retaliation towards SNM.
- c. Issue: Subject Name Marine did receive a page-11 entry (**Tab-B**) for failure to accept the results of an equal opportunity investigation.
- d. Comment: The statements contained in the page-11 entry can be considered retaliation against SNM.

2. On 2 April 1998, an investigation into allegation of racial discrimination was conducted by CG 3d MAW and was found to be unsubstantiated. In his original complaint, Staff Sergeant [REDACTED] alleges "bias" by his reporting senior. It appears that since Staff Sergeant [REDACTED] is an African American, the command assumed his reference to "bias" meant racial discrimination. This assumption appears to have clouded the command's investigation. It is my recommendation that this case be forwarded to the Headquarters Marine Corps Inspector General office for investigation of reprisal. This procedure will require an extension of the case due date.

Subj: REVIEW OF BCNR APPLICATION IN THE CASE OF STAFF SERGEANT
[REDACTED]

3. For further assistance please contact MGySgt [REDACTED],
DSI [REDACTED] Comm. [REDACTED]

[REDACTED]
[REDACTED]
Head, Manpower
Equal Opportunity Branch
Manpower Plans and Policy
Division



DEPARTMENT OF THE NAVY
DEPUTY NAVAL INSPECTOR GENERAL FOR MARINE CORPS MATTERS/
INSPECTOR GENERAL OF THE MARINE CORPS
WASHINGTON, D.C. 20380-1775

5001
IGA
4 Jan 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS

SUBJ: REVIEW OF BCNR APPLICATION IN THE CASE OF STAFF SERGEANT
[REDACTED]

Ref: (a) R [REDACTED] dtd 3 Dec 98
(b) BCNR Package dtd 03 Dec 98
(c) BCNR Package dtd 16 Dec 98

1. Per reference (a) and upon review of MPE comments, this office concurs with the PERB (27 Oct 98) comments reference (b), notwithstanding the appeal in ref (c). SSgt [REDACTED] failed to provide necessary documentation to substantiate an error or injustice that falls within the purview of IGMC.

[REDACTED]
Colonel, U. S. Marine Corps
Director
Assistance & Investigations

7761-98



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1070
MI
2 Jun 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE STAFF SERGEANT [REDACTED]
[REDACTED] USMC

1. We reviewed Staff Sergeant [REDACTED] application and supporting documents concerning his request for removal of the Administrative Remarks page 11 entry dated 980422, from his service record.
2. MCO P1070.12, Marine Corps Individual Records Administrative Manual (IRAM), authorizes commanders to make Service Record Book entries on page 11 for recording information that is not, or cannot be, documented anywhere else in the Service Record Book or the Marine's automated record.
3. This review addresses the administrative correctness of the counseling entry per the dictates of the IRAM. This review does not address the merits of Staff Sergeant [REDACTED] arguments of bias or prejudice which he contends were at least in part the motivation for the counseling entry. Other more competent agencies will comment on these significant aspects of Staff Sergeant [REDACTED] application.
4. Though this counseling entry is lengthy and not easily followed, it does meet the elements of a proper page 11 counseling per the IRAM. In view of this, it is recommended that Staff Sergeant [REDACTED] request for removal of the page 11 counseling entry dated 980422 be disapproved.

[REDACTED]
[REDACTED]
Head, Manpower Information System
Field Support Branch
Manpower Management Information
Systems Division
By direction of the
Commandant of the Marine Corps